

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MAY 17, 2005

CALL TO ORDER/NOTING OF QUORUM

Chairman Heath called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Brizzi and Commissioner Sturtz. Also in attendance were Industry Liaison Okey, Executive Secretary Choe and Superintendent Huskey.

Lisa Goldner of Bose McKinney and Evans, Joe Quill and Grant Monahan of IRC were present as observers.

DISPOSITION OF MINUTES

Vice Chairperson Brizzi moved to approve the minutes submitted for the May 3, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES AGREED DISPOSITION (PAD) FORMS – Vice Chairperson Brizzi moved to approve the PAD forms submitted for the May 17, 2005 meeting. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR45-06542 GAIL GRAY – Hearing Judge Choe recommended the Commission remand the 2003 renewal to the local board for reconsideration. No testimony was given by the remonstrators at the local board hearing and the local board members did not have the disposition from the violation hearing available at the time of their vote.

Vice Chairperson Brizzi moved to remand this renewal to the local board. Motion seconded by Commissioner Sturtz and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permit applications for catering and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

Three hundred ninety-six (396) renewals approved, one hundred seven (107) new and/or transfer permits approved, nine (9) permits approved for catering, eight (8) permits approved for first year escrow, five (5) permits approved for second year escrow, six (6) permits approved for third year escrow, one (1) permit approved for fourth year escrow and one (1) permit approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairperson Brizzi moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Commissioner Sturtz and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR71-21757 & RR71-21758 FIVE FEATHERS, LLC – Chairman Heath noted this applicant is requesting permission to file for a type 103 permit and a type 210-1 permit simultaneously.

Vice Chairperson Brizzi moved to approve this request. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL48-10287 KEG-N-BOTTLE, INC. – Chairman Heath noted this is a type 217 renewal application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL48-13526 KEG-N-BOTTLE, INC. – Chairman Heath noted this is a type 217 renewal application with the local board voting four (4) to zero (0) to approve.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and approve the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL61-21592 PAMIDA, INC. – Chairman Heath noted this is a new type 115 application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the new permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

DL42-21237 WAL-MART STORES EAST LP –

Chairman Heath – Knox County, 21237, Wal-Mart Stores East LP, new type 208 application with the local board voting three (3) to one (1) to disapprove.

Vice Chairperson Brizzi – I make a motion that we uphold the local board.

Chairman Heath – Not hearing a second, the motion fails for lack of a second. Do I have another motion?

Commissioner Sturtz – Mr. Chairman, I make a motion that we reverse the local board. I read the application very carefully and the remonstrances. Seventy-one percent of the remonstrances that signed that were for Wal-Mart. And, I realize that some of them are Wal-Mart employees, but also on the other side the people that were against this were basically church groups and people with Mothers Against Drunk Driving. Not that there's anything wrong with that. That's who we expect to be against it. I think of all the permits they've filed for and are on appeal and the length of time it takes to get that done...they are selling a legal product and I know of no reason...Kroger stores have it. Other types of that business. I see of no reason why Wal-Mart shouldn't be entitled to do that. They are kind of look upon in the business community as the 800 lb gorilla and maybe they are. But, that shouldn't, I think, stop us from giving them the opportunity to do business. So I would make that motion.

Chairman Heath – I take it that you're not going to second that, so I will second that motion. Those in favor?

Commissioner Sturtz – Aye.

Chairman Heath – Aye. Motion carries.

RR64-10660 FLORNDAL, INC. D/B/A JUNKYARD BAR & GRILL – Chairman Heath noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR46-21643 EAT AT MOE'S, INC. – Chairman Heath noted this applicant applied for a new type 303 permit, but it was advertised as a new type 103 permit. The local board approved the application as a 303 permit. The permit needs to be converted from a type 103 to a type 303 permit.

Vice Chairperson Brizzi moved to convert this permit. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR29-19572 PREFERRED MARKETING GROUP – Chairman Heath noted this is a type 210 renewal application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the renewal. Motion seconded by Commissioner Sturtz and it was unanimously approved.

RR46-08603 JASON PRATER D/B/A JJ'S BAR AND GRILL – Chairman Heath noted this is a type 210 transfer of ownership application with the local board voting three (3) to one (1) to disapprove.

Vice Chairperson Brizzi moved to uphold the local board's recommendation and deny the transfer. Motion seconded by Commissioner Sturtz and it was unanimously approved.

INACTIVE FILES

No Inactive Files

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

DL49-21523 GARB-KO, RR45-05401 HUNTER-ELLIS & DL46-21320 SMOKE SHOP – Hearing Judge Choe stated appeals have been filed for the above-referenced applications.

OLD BUSINESS

No Old Business

NEW BUSINESS

NEW LEGISLATIVE CHANGES – Chairman Heath stated the new legislative changes that became effective May 11, 2005, are now posted on the website.

RR46-04196 ROBERT LANTZ – Executive Secretary Choe stated that the renewal for this permit was denied by the Commission and is currently under appeal. It appears that the owner of this permit sold the permit without seeking prior approval to do so from the Commission. Due to the fact that the renewal of the permit was denied, the owner is required to request permission to file for a transfer of ownership.

Joe Quill, attorney for the purchaser, stated that he was not aware that the permit had already been sold. He also stated that the purchaser had put quite a bit of money in the renovation of the building and has been operating the business in a proper manner, as shown by a letter sent to the Commission by the Mayor of LaPorte praising the new owner.

Chairman Heath stated that it is the goal of the Commission to make sure that the permit premises that we approve are well run, upstanding establishments and it appears that this one is on its way to being that.

Commissioner Sturtz moved to allow the filing of a transfer of ownership for this permit. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

UNDER ADVISEMENT

Nothing Under Adviselement

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Motion seconded by Vice Chairperson Brizzi and it was unanimously approved.

Approved this _____ day of _____, 2005.

DAVE HEATH, CHAIRMAN

MELANIE BRIZZI, VICE CHAIRPERSON

DALE STURTZ, COMMISSIONER